

Message Text

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ORIGIN EB-07

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DRAFTED BY EB/AN:RABROWN:EB/TCA:JWBILLER:CJR
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FM SECSTATE WASHDC
TO AMEMBASSY ABIDJAN IMMEDIATE

C O N F I D E N T I A L STATE 107717

FOR COOPER FROM KATZ

E.O. 11652: GDS

TAGS: EAIR, IV

SUBJECT: CIVAIR: SECTION 801 PROCEDURES

1. WILLIAM P. SEAWELL, PRESIDENT OF PAN AMERICAN, HAS REQUESTED APPOINTMENT WITH YOU AS SOON AS POSSIBLE WEEK OF MAY 16 TO DISCUSS SOUTH PACIFIC ROUTE CASE, WHICH IS CURRENTLY BEFORE PRESIDENT FOR APPROVAL. CAB RECOMMENDATION IN THIS CASE AWARDS TO CONTINENTAL AIRLINES ROUTES ON WHICH PAN AM IS NOW SOLE US FLAG CARRIER.

2. SECTION 801 OF THE FEDERAL AVIATION ACT REQUIRES THAT CERTAIN CIVIL AERONAUTICS BOARD DECISIONS ARE SUBJECT TO THE APPROVAL OF THE PRESIDENT. UNDER EXECUTIVE ORDER 11920, THE PRESIDENT ESTABLISHED PROCEDURES TO BE FOLLOWED BY THE EXECUTIVE BRANCH IN ADVISING HIM IN THIS REVIEW. PURSUANT TO THESE PROCEDURES, DEPARTMENT HAS ISSUED REGULATIONS STATING THAT ALL SUBMISSIONS FROM INTERESTED PRIVATE PARTIES MUST BE IN WRITING IF POSSIBLE, AND THAT SUCH SUBMISSIONS ARE TO BE MAINTAINED IN OPEN DOCKET FILE. THESE
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PROCEDURES WERE PROMULGATED IN ORDER TO MEET OBJECTIONS TO THE FORMER PRACTICES, WHICH WERE SAID TO LEAD TO UNFAIR ADVANTAGES FOR PRIVATE PARTIES WHICH WERE MORE ACTIVE LOBBYISTS AND TO NEGATION DURING PRESIDENTIAL REVIEW OF DUE PROCESS PROCEDURES WHICH HAD BEEN STRICTLY FOLLOWED BY

CAB.

3. AT THE TIME OF THE NORTH ATLANTIC ROUTE CASE, SEAWELL ATTEMPTED TO MEET WITH DEPUTY SECRETARY ROBINSON IN ORDER TO PRESENT PAA'S VIEWS ON THAT CASE. DESPITE SEAWELL'S VIOLENT OBJECTIONS, ON OUR ADVICE ROBINSON DID NOT MEET WITH HIM BECAUSE HIS SUBMISSION COULD BE MADE IN WRITING. WE POINTED OUT THAT IF WE RECEIVED ORAL SUBMISSION FROM ONE PARTY, WE WOULD HAVE GREAT DIFFICULTY IN DENYING ACCESS TO DEPARTMENT AT SAME LEVEL BY OTHER INTERESTED PARTIES.

4. SINCE THERE IS NO BASIC DIFFERENCE BETWEEN THE NORTH ATLANTIC CASE OF LAST YEAR AND THE CURRENT SOUTH PACIFIC CASE EXCEPT THAT FEWER PARTIES ARE INTERESTED IN LATTER, WE FEEL YOU SHOULD MAINTAIN PRINCIPLE AND REQUIRE PA'S SUBMISSION IN WRITING. FURTHERMORE, THE LAWYER OF ONE OF THE PARTICIPANTS IN THE CASE, CONTINENTAL, IS LEE HYDEMAN, WHO IS VERY ACTIVE IN THE CAMPAIGN TO DO AWAY WITH SECTION 801 AND TO REMOVE THE PRESIDENT FROM HIS ROLE IN THIS KIND OF PROCEEDING.

5. RECOMMENDATION: THAT WE INFORM SEAWELL THAT YOU ARE NOT AVAILABLE AND INVITE HIM TO SUBMIT HIS VIEWS IN WRITING. CHRISTOPHER

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